

MICHAEL A. BACON  
INMATE NO 362942  
3415 S. 900W  
SALT LAKE CITY, UTAH 84119

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DEC 27 2021

U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

MICHAEL A. BACON

CIVIL RIGHTS COMPLAINT

PLAINTIFF

42 U.S.C. § 1983

v.

& BIVENS ACTION

JACOB BARKER, et al

DEFENDANTS

Case: 2:21-cv-00760

Assigned To: Nielson, Howard C., Jr

Assign. Date: 12/27/2021 Description:

Bacon v Barker et al

INTRODUCTION

THE DEFENDANTS VIOLATED CONSTITUTIONAL RIGHTS OF FALSE ARREST, FALSIFYING OF EVIDENCE, DENYING RIGHTS TO AN ATTORNEY WHEN ONE WAS REQUESTED, DESTRUCTION OF PERSONAL PROPERTY, ILLEGAL SEIZURE, EXCESSIVE FORCE, THREATS, INTIMIDATION & MALICIOUS PROSECUTION. ALL OF THESE ARE GUARANTEED RIGHTS THAT ARE PROTECTED UNDER THE 4<sup>TH</sup> 5<sup>TH</sup> 6<sup>TH</sup> & 14<sup>TH</sup> AMENDMENTS OF THE U.S. CONSTITUTION.

JURISDICTION

1) THIS COMPLAINT ASSERTS CAUSES OF ACTIONS ARISING UNDER THE U.S. CONSTITUTION AND THE LAWS OF THE UNITED STATES. PURSUANT TO 42 U.S.C. § 1983 & BIVENS THE PLAINTIFF ALLEGES CAUSES OF ACTIONS IN VIOLATION OF THE 4<sup>TH</sup> 5<sup>TH</sup> 6<sup>TH</sup> & 14<sup>TH</sup> AMENDMENTS OF THE U.S. CONSTITUTION.

2) THIS COURT HAS SUBJECT MATTER JURISDICTION OVER THE PLAINTIFF'S FEDERAL CLAIMS PURSUANT TO 28 U.S.C. § 1331.

VENUE

3) A SUBSTANTIAL PART OR ALL OF THE ACTS AND OMISSIONS GIVING RISE TO THE PLAINTIFF'S CLAIMS OCCURRED IN THE UTAH JUDICIAL DISTRICT. VENUE IS PROPER IN THIS JUDICIAL DISTRICT PURSUANT TO 28 U.S.C. § 1391 (b).

### THE PARTIES

- 1) PLAINTIFF, MICHAEL A. BACON IS AN ADULT INDIVIDUAL CURRENTLY INCARCERATED BY THE U.S. MARSHAL SERVICE AT SALT LAKE COUNTY JAIL.
- 5) DEFENDANT, JACOB BARKER IS A POLICE OFFICER FOR SALT LAKE CITY ACTING WITHIN THE SCOPE OF THAT AGENCY, OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW HE IS SUED IN HIS INDIVIDUAL & OFFICIAL CAPACITY.
- 6) DEFENDANT, LANE WOLFFENBARGER IS A POLICE OFFICER FOR SALT LAKE CITY ACTING WITHIN THE SCOPE OF THAT AGENCY, OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW HE IS SUED IN HIS INDIVIDUAL & OFFICIAL CAPACITY.
- 7) DEFENDANT, DAVID KING IS A POLICE OFFICER FOR SALT LAKE CITY ACTING WITHIN THE SCOPE OF THAT AGENCY, OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW HE IS SUED IN HIS INDIVIDUAL & OFFICIAL CAPACITY.
- 8) DEFENDANT, CARLIE MARSTON IS A DETECTIVE FOR SALT LAKE CITY ACTING WITHIN THE SCOPE OF THAT AGENCY, OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW SHE IS SUED IN HER INDIVIDUAL & OFFICIAL CAPACITY.
- 9) DEFENDANT, JEREMY FOWLER, IS AN AGENT FOR FEDERAL BUREAU OF INVESTIGATION ACTING WITHIN THE SCOPE OF THAT AGENCY OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW, HE IS SUED IN HIS INDIVIDUAL & OFFICIAL CAPACITY.
- 10) DEFENDANT, STEVEN HYMAS IS AN AGENT FOR FEDERAL BUREAU OF INVESTIGATION ACTING WITHIN THE SCOPE OF THAT AGENCY OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW. HE IS SUED IN HIS INDIVIDUAL & OFFICIAL CAPACITY.
- 11) DEFENDANT CAMERON WARNER IS A FEDERAL EMPLOYEE FOR DEPARTMENT OF JUSTICE ACTING WITHIN THE SCOPE OF THAT AGENCY OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW. HE IS SUED IN HIS INDIVIDUAL & OFFICIAL CAPACITY.
- 12) DEFENDANTS DOE 1-10 ARE AND/OR WERE AGENTS, EMPLOYERS

AGENCIES, AND/OR ENTITIES OF THE NAMED DEFENDANTS PLACE OF EMPLOYMENTS AND ACTED WITHIN THE SCOPE OF THAT AGENCY OR EMPLOYMENT AND UNDER COLOR OF STATE & FEDERAL LAW, THE TRUE AND CORRECT NAMES OF THE DOE DEFENDANTS ARE PRESENTLY UNKNOWN TO PLAINTIFF AND THEY ARE SUED BY THEIR FICTITIOUS NAMES. THEIR TRUE AND CORRECT NAMES WILL BE SUBMITTED WHEN ASCERTAINED.

### JURY DEMAND

13) PLAINTIFF DEMANDS A JURY TRIAL ON ALL CLAIMS TRIABLE BY A JURY

### FACTS AND ALLEGATIONS

14) ON JULY 20 2021 I WAS WALKING OUT OF BURGER KING IN SALT LAKE CITY, UTAH ON ABOUT 1300 S. & 300 W. STOPPED BY DEFENDANTS

15) I WAS INFORMED I WAS STOPPED BECAUSE I FIT THE DESCRIPTION OF A PERSON WHO JUST ROBBED A BANK

16) I ASKED WHAT WAS THAT PERSON WEARING AND THE DEFENDANTS ADMITTED THE CLOTHES I WAS WEARING DID NOT MATCH THE SUBJECTS

17) I SAID IF I DONT MATCH THEN WHY STOP ME & DEFENDANT SAID BECAUSE I HAD A WHITE TOWEL. I SAID I DONT HAVE A WHITE TOWEL ITS GRAY AND DEFENDANT SAYS WELL IT IS NOW ADMITTING MY TOWEL WASNT WHITE BUT USED IT AS AN EXCUSE TO STOP ME

SEE IF I HAD A WARRANT I SEARCH MY PERSON, SEIZE ME & MY PROPERTY

18) DEFENDANTS KNOWINGLY AND INTENTIONALLY FALSIFIED, FABRICATED EVIDENCE TO WRONGLY STOP ME, SEARCH ME ARREST & CHARGE ME

19) NO PROBABLE CAUSE EXISTED TO STOP ME, SEIZE ME, MY PROPERTY ARREST ME FOR BANK ROBBERY

20) DEFENDANTS POLICE REPORTS DO NOT MATCH THE EVIDENCE OF WHAT HAPPENED. IT CONTRADICTS THE VIDEO & BODY CAM FOOTAGE.

21) DEFENDANT THREATENED TO TAKE ME DOWN PHYSICALLY TO THE GROUND HOLD ME DOWN FORCE ME IN HANDCUFFS TO PLACE MY

FINGERS ON A RUBER BIOMETRIC APPLICATION (RBA)

22) DEFENDANTS EXCESSIVE FORCE CAUSED SEVER TRAUMA TO MY SHOULDER BY PHYSICALLY LIFTING ME FROM THE GROUND WITH MY ARMS/HANDS BEHIND MY BACK. THEY USED MY ARMS/HANDS TO LIFT ME.

23) DEFENDANTS DENIED MY VERBAL REQUEST TO CALL MY ATTORNEY AND SAID I CANT IF THEY STILL CHOSE TO INTERROGATE ME IN VIOLATION OF MY MIKANDA & EDWARDS RIGHTS 5<sup>TH</sup> AMENDMENT

24) DEFENDANTS ILLEGALLY SEIZED MY PERSONAL PROPERTY NOT USED IN THE COMMISSION OF A CRIME THEN ON THE SIDE OF THE ROAD DUMPED MY ITEMS OUT OF MY BACKPACK ON THE DIRT & ROCKS BREAKING MY PERSONAL ITEMS & LOSING SOME IN THE PROCESS.

25) DEFENDANTS DID NOT PROVIDE/MAKE AN ITEMIZED LIST OF PROPERTY THEY TOOK FROM ME OR WHAT THEY SEIZED AND NOW ITEMS I HAD ARE MISSING.

26) I FILED A NOTICE OF CLAIM FOR PROPERTY AGAINST THE DEFENDANTS AND SALT LAKE CITY CORPORATION DENIED MY CLAIM.

27) DEFENDANTS KNOW THERE WAS NO EVIDENCE TO STOP ME NO GPS, NO EYEWITNESS, NO MATCHING CLOTHES, NO DISTINGUISHED MARKS, WORKING FOR SOMEONE WITH HAD DARKER SKIN THEN ME, WITH HAD A TATTOO I DONT HAVE, NO FORENSIC EVIDENCE LIES FOR GROUNDS TO JUSTIFY THE STOP NOTHING LINKED ME TO THE BANK NOT MONEY OR DIME FRAME FROM WHERE THE BANK WAS TO WHERE THEY SAW ME

28) THEY DID THESE ILLEGAL ACTIONS & MORE BECAUSE THEY FOUND OUT I WAS MICHAEL BACON

29) THE ACTIONS OF THE DEFENDANTS WERE PURPOSEFUL AND FLAGRANT OFFICIAL MISCONDUCT SUSPICIONLESS FISHING EXPEDITION.



30) THEIR ACTIONS WERE WANTON FOR IN THEIR SEARCH FOR LAW BREAKING THEY THEMSELVES BROKE THE LAWS THEY SWORE TO UPHOLD & THEIR ACTIONS EXPOSE THEM TO CIVIL LIABILITY

31) A BASIC PRINCIPLE LIES AT THE HEART OF THE 4TH AMENDMENT: TWO WRONGS DON'T MAKE A RIGHT

32) THEY EXPLOITED THEIR ILLEGAL ACTIONS TO OBTAIN EVIDENCE THAT DIDN'T EXIST FROM THE OUTSET ADMITTEDLY BY DEFENDANTS OWN ADMISSIONS AND THEY INTENTIONALLY FAISIFIED THEIR REPORTS TO JUSTIFY THEIR ACTIONS

33) THEY ILLEGALLY STOPPED & DETAINED ME DENYING INTENTIONALLY MY RIGHTS TO AN ATTORNEY AND ATTEMPT TO COVER UP THEIR ILLEGAL ACTIONS TO OBTAIN REASONS TO SEARCH ME FOR THE SOLE PURPOSE OF FISHING EXPEDITION THEY WANTED TO SEARCH ME & MY BACKPACK SO THEY STOPPED ME TO RUN A WARRANT CHECK TO COVER UP THEIR ILLEGAL ACTIONS & CONDUCT IN WHICH SALT LAKE CITY POLICE ADMITS THEY DO THIS FOR JUST THAT PURPOSE & PART OF THEIR PROTOCOL. THEY ILLEGALLY STOP PEOPLE THEN RUN A WARRANT CHECK TO COVER IT UP.

34) THEIR VIOLATIONS ARE CALCULATED TO PROCURE EVIDENCE, THEY PERFORM ILLEGAL ACTS THEN TO COVER THEIR ACTION RUN A WARRANT CHECK

35) THE ILLEGAL EXPEDITION FOR EVIDENCE IN THE HOPE THAT SOMETHING MIGHT TURN UP THAT'S WHY THEY RUN A WARRANT CHECK BECAUSE THEY WANT TO SEARCH ME & BACKPACK

36) ITEMS FOUND ILLEGALLY THE PURPOSE FOR RUNNING WARRANT CHECK IS TO CLEAN UP WHATEVER ILLEGAL CONDUCT UNCOVERED IT. THE STOP IS ILLEGAL & WARRANT CHECK CLEANS IT UP.

37) THERE WAS NO GOOD REASON FOR THE STOP PURPOSE WAS FOR FISHING EXPEDITION AS EVIDENT BY THEIR OWN STATEMENTS ACTIONS/UNDO. FACT IN POINT NOT ONLY DID THEY HAVE NO GROUNDS FOR STOP BUT THEY ATTEMPT TO DOCTOR THEIR REPORT ACTIONS & OMISSIONS BUT THEIR MISCONDUCT IS ALREADY RECORDED AND EXPOSES THE LIES TOLD BY THEM.

38) EXAMPLE WHAT IS THE PURPOSE FOR THE STOP THAT THEY HAD NO GROUNDS TO STOP ME FOR & WHY DENY ME AN ATTORNEY WHEN I ASKED FOR ONE & STILL TAKE ME TO BE INTERROGATED.

39) DEFENDANTS PRACTICE STOP & QUESTION FIRST DEVELOPE REASONABLE SUSPECTION LATER. THESE EVENTS ARE NOT ISOLATED & THERE IS INDICATION THAT THIS UNLAWFUL STOP, ARREST, CHARGE IS PART OF A SYSTEMIC OR RECURRENT POLICE MISCONDUCT AS SHOWN BY U.S. SUPREME COURT JUSTICES BUT ALSO BY UTAH SUPREME COURT JUSTICES FOR THEY DETAIL BY STATISTICS AND ADMISSIONS AS ROUTINE PROCEDURE OR COMMON PRACTICE THE DECISIONS OF SALT LAKE CITY POLICE OFFICERS TO RUN WARRANT CHECKS ON PEDESTRIANS THEY DETAINED WITHOUT REASONABLE SUSPECTION CHECKING FOR OUTSTANDING WARRANTS DURING A STOP IS THE NORMAL PRACTICE OF SALT LAKE CITY POLICE & ARE TAUGHT TO DO SO TO COVER UP THEIR ILLEGAL ACTIONS. IN OTHER WORDS THE DEPARTMENT'S STANDARD DETENTION PROCEDURE STOP ASK FOR IDENTIFICATION RUN A CHECK ARE PARTLY DESIGNED TO FIND OUTSTANDING WARRANTS THEN GROUNDS FOR SEARCHING A PERSON & COVERING UP THE ILLEGALITY OF THE STOP. JUST LIKE IN MY CASE. I DIDNT ACT SUSPICIOUS, HAD

nothing to match the suspect yet they lied to justify the stop for I just walked out of Burger King. They said my towel was white & that's why they stopped me yet they admit later it wasn't on video yet in police report they said it was white that's why they stopped me "when we condone officers' uses of these devices without adequate cause we give them reason to target pedestrians in an arbitrary manner we also risk treating members of our community as second class citizens" Justice Sotomayor

40) The exclusionary rule serves a crucial function to deter unconstitutional police conduct. Just as holding them accountable in civil actions, for where they can cover up their actions in a criminal action they can't in a civil for they are held to different standards

41) By barring the use of illegally obtained evidence and illegal stops by punishing police for illegal actions in civil actions maybe they will think twice before they attempt it again.

42) To allow defendants to get away with illegal actions "the officials incentive to violate the constitution thus increases: From here on, he sees potential advantage in stopping individuals without reasonable suspicion - exactly the temptation the exclusionary rule is supposed to remove. Because the majority thus places fourth amendment protections at risk..." Justice Kagan

43) So since it seems they can get away with it in criminal shouldnt how true in civil

44) AS EVIDENT BY MY CASE SERIOUS CONSTITUTIONAL VIOLATIONS OCCURRED. DEFENDANTS INTENTIONALLY & KNOWINGLY VIOLATED MY CONSTITUTIONAL RIGHTS. THEY STOPPED ME ILLEGALLY, LIED ABOUT MY ACTIONS, FALSIFIED EVIDENCE TO COVER UP THEIR ILLEGAL ACTIONS, DENIED ME AN ATTORNEY WHEN I ASKED FOR ONE IN FACT TOLD ME "NO". THEY MUST BE HELD ACCOUNTABLE FOR THEIR ACTIONS FOR THEY ARE BLATANT ACTS.

### PRAYER FOR RELIEF

WHEREFORE I SEEK JUDGMENT AS FOLLOWS:

- 1) COMPENSATORY AND PUNITIVE DAMAGES;
- 2) ISSUANCE OF A JUDGMENT DECLARING THAT THE DEFENDANTS HAVE VIOLATED/INFRINGED UPON MY CONSTITUTIONAL RIGHTS;
- 3) AN AWARD OF ATTORNEY FEES; AND
- 4) SUCH OTHER AND FURTHER RELIEF AS THE COURT MAY DEEM EQUITABLE AND JUST UNDER THE CIRCUMSTANCES.

### DECLARATION UNDER PENALTY OF PERJURY

THE UNDERSIGNED DECLARES UNDER PENALTY OF PERJURY THAT HE IS THE PLAINTIFF IN THE ABOVE ACTION THAT HE HAS READ THE ABOVE COMPLAINT AND THAT THE INFORMATION CONTAINED THEREIN IS TRUE AND CORRECT 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Salt Lake County

Dated this 21<sup>ST</sup> Day of December 2021

Michael O. Bacon

MICHAEL A. BACON